

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NORTH DAKOTA

In Re:	)	
	)	
Drain Services, Inc.	)	
	)	Case No. 23-30352
	)	
	)	Chapter 11
	)	Subchapter V
	)	
	)	
Debtor	)	

FIRST INTERIM APPLICATION OF THOMAS J. KAPUSTA FOR SUBCHAPTER V TRUSTEE FEES AND EXPENSES

Thomas J. Kapusta, in his capacity as the Sub Chapter V Trustee d/b/a TK Enterprises, LLC.

("Applicant"), pursuant to 11 U.S.C. §§ 330 and 331, hereby requests that the Court approve its Application and enter an Order thereby awarding certain Sub Chapter V Trustee 's fees and expenses incurred in connection with this case. In support thereof, Applicant respectfully represents:

1. Applicant is the Sub Chapter V Trustee of record for the Chapter 11 proceeding and has acted as such since being appointed same on October 4, 2023.
2. Thomas J. Kapusta is manager and sole member of TK Enterprises, LLC. Thomas J. Kapusta has over 40 years of experience as a practicing attorney in multiple jurisdictions.
3. Applicant has expended time in the form of professional services in support of this Chapter 11 Sub Chapter V proceeding. This time has been itemized on records reflecting

the work performed by the Applicant during the period covered by this First Interim Application. Attached hereto as Exhibit "A" are the time records/invoicing (Invoice #117) related to the services, setting forth the date of each service, a description of the service rendered, and the time spent rendering such service at a rate of \$275.00 per hour plus expenses noted, and the resulting fee charge on account of the service listed.


4. Applicant has listed on Exhibit "A" any expenses incurred directly in connection with Applicant's duties as Sub Chapter V Trustee of this proceeding and were necessary to Applicant's services.
5. This first interim application includes fees, expenses and sales taxes in the aggregate amount of \$5105.58 including expenses in the amount of \$82.32 and applicable sales tax in the amount of \$293.26 for the period of October 4, 2023, through November 17, 2023, that have not been previously applied for or approved for payment.
6. Work on this case during the time concerned has involved services from the Applicant related to the: (i ) review, evaluation and verification of the Debtor's Schedules and Statements as required under 11 U.S.C. §521; (ii) meeting with the United States Trustee's office and court including the Initial Debtor Interview; the first meeting of creditors; working with Debtor Counsel and with Debtor and debtors creditors, (iii) reviewing any Debtor monthly operating reports; (iv) and general work including financial analysis, review of motions and responding to inquiries, meeting with applicable creditors and debtor counsel regarding the Chapter 11 Sub Chapter V proceeding.
7. The undersigned trustee represents to the Court that the services and expenses

provided during the period covered by this First Interim Fee Application were ordinary and necessary given the nature of this Chapter 11 Sub Chapter V proceeding, and that no work was excessive or detrimental to the Bankruptcy Estate.

8. Applicant further requests that the Court, pursuant to 11 U.S.C. §, 330 and 331 approve the allowance of fees and expenses as ought in this First Interim Fee Application and authorize the Debtor, as debtor in possession, to pay the balance of such fees and expenses as approved by the Court to the Applicant as funds are available in the account maintained by the Debtor.

WHEREFORE, Applicant prays that the Court, pursuant to 11 U.S.C. § 330 and 331, enter an Order approving the First Interim Application for Fee and Expenses of the Applicant, and award compensation for services rendered and expenses in the amount of \$5105.58 for the period covered in the First Interim Application, and direct the Debtor, as debtor-in-possession, to pay the balance of such fees and expenses to the Applicant from Debtor account as such funds become available without adversely affecting the ability of the Debtor to pay its ongoing expenses and otherwise perform the obligations of the Debtor as debtor-in-possession, and for any and all other relief deemed just and equitable in the premises.

Dated: November 17, 2023

Signed:   
Thomas J. Kapusta, Sub Chapter V Trustee  
TK Enterprises, LLC  
PO Box 90624  
Sioux Falls, SD 57109  
Phone: 605-376-6715  
Email: [tkapusta@aol.com](mailto:tkapusta@aol.com)



<b>Thomas J Kapusta</b>		<b>EXHIBIT A</b>	
<b>TK Enterprises, LLC</b>			
<b>Subchapter V Trustee</b>			
PO Box 90624 Sioux Falls, SD 57109		Phone: 605-376-6715 tkapusta@aol.com	
Bill To: Drain Services, Inc/o Attorney Maurice VerStandig The Dakota Bankruptcy Firm		Phone: 701-394-3215	Invoice #: 117
Address: The Dakota Bankruptcy Firm, 1630 1st Avenue N. Suite B PMB 24,		Email: mac@mbvesq.com	

Case Name: Drain Services, Inc.

Invoice Date: November 17, 2023

Case #: 23-30352

Date	Services	Time Spent	Fee Total
10/4/2023	Receive new assignment from USTO, review petition, check for conflicts, complete and submit verification, review all initial docket entries and filings, calendar upcoming events	1.5 hr	\$412.50
10/4/2023	Review email from debtor counsel and respond	.1 hr	\$27.50
10/4/2023	Receive and respond to email from USTO on conducting IDI and prepare and submit monthly trustee report	.2 hr	\$55.00
10/5/2023	Review letter for SBA by Attorney Baker	.1 hr	\$27.50
10/5/2023	Review objection to motion for leave to use cash collateral filed by Choice Financial	.2 hr	\$55.00
10/5/2023	Review exhibit list #24 filed by Choice Financial	.3 hr	\$82.50
10/5/2023	Review Debtor witness and exhibit lists #25	.1 hr	\$27.50
10/6/2023	Review certificate of notice for expedited hearing #26 and certificate of notice for status conference #27	.2 hr	\$55.00
10/6/2023	Prepare for and attend motion hearing re: #14 order granting motion for expedited hearing	1.6 hr	\$440.00
10/6/2023	Review docket entries post hearing #28, 29 and 30	.2 hr	\$55.00
10/7/2023	Review certificate of notice and docket entry #34 and 35	.1 hr	\$27.50
10/9/2023	Review certificate of notice #36-38	.2 hr	\$55.00
10/12/2023	Review SBA proof of claim 1-1	.2 hr	\$55.00
10/12/2023	Review USTO motion to appear by telephone #39	.1 hr	\$27.50
10/12/2023	Review notice of appearance filed by Tracy Kennedy for Choice Financial #40	.1 hr	\$27.50
10/12/2023	Review order granting USTO motion to appear by telephone #41	.1 hr	\$27.50
10/12/2023	Prepare and file motion to appear by telephone and review order granting motion #42	.2 hr	\$55.00
10/12/2023	Review email from USTO on IDI	.1 hr	\$27.50
10/13/2023	Review SBA conditional objection to motion to use cash collateral #44 and IRS same conditional objection #45	.2 hr	\$55.00
10/14/2023	Review SBA exhibit list #46 and witness list #47	.2 hr	\$55.00
10/16/2023	Review notice of appearance by Vogel Law Firm #48	.1 hr	\$27.50
10/16/2023	Review SBA amended witness list #49	.1 hr	\$27.50
10/17/2023	Review debtor witness and exhibit lists #50	.1 hr	\$27.50
10/17/2023	Review amended schedules #51	.2 hr	\$55.00
10/17/2023	Review proof of claim Xcel Energy 2-1	.1 hr	\$27.50



Date	Services	Time Spent	Fee Total
10/17/2023	Review IRS proof of claim 3-1	.1 hr	\$27.50
10/17/2023	Prepare and attend hearing on motion to use cash collateral	1.2 hr	\$330
10/18/2023	Review docket entry on order granting leave to use cash collateral and schedule and calendar for final hearing on motion #53-54	.1 hr	\$27.50
10/18/2023	Review email from USTO regarding IDI	.1 hr	\$27.50
10/19/2023	Review email from USTO scheduling IDI and calendar same	.1 hr	\$27.50
10/19/2023	Review USTO email to debtor counsel regarding debtor's use of funds to pay law firm and accountant and IDI	.1 hr	\$27.50
10/21/2023	Review debtor counsel provided debtor bank account info	.2 hr	\$55
10/23/2023	Review order granting motion to use cash collateral on interim basis #55	.2 hr	\$55
10/23/2023	Review USTO email to debtor counsel on bank checks	.1 hr	\$27.50
10/24/2023	Attend and participate in IDI	1.3 hr	\$357.50
10/24/2023	Review docket entry #56	.1 hr	\$27.50
10/28/2023	Review docket entry #57	.1 hr	\$27.50
10/28/2023	Review docket entry #58 motion to appear by telephone and order granting same #59	.1 hr	\$27.50
10/28/2023	Review email and check attachments providing explanations to USTO by debtor counsel	.2 hr	\$55
10/28/2023	Review and respond to emails regarding hearing time for 10-31-2023 hearing	.3 hr	\$82.50
10/28/2023	Review debtor counsel email and attachments of debtor weekly ledger	.2 hr	\$55.00
10/30/2023	Review notice of hearing change and re-calendar #60	.1 hr	\$27.50
10/31/2023	Review motion to purchase jetter #61	.2 hr	\$55.00
10/31/2023	Review monthly bank ledger and checks for October 2023	.3 hr	\$82.50
10/31/2023	prepare for and attend hearing related to #8	.6 hr	\$165.00
10/31/2023	Various email communication regarding scheduling confirmation hearing	.2 hr	\$55
11/2/2023	Review docket entries #62-65 including order granting motion to use cash collateral and email communications transmitting debtor initial financial report	.4 hr	\$110
11/2/2023	Attend 341 meeting	1.1 hr	\$302.50
11/4/2023	Prepare and submit monthly trustee report	.1 hr	\$27.5
11/4/2023	Review pre-status conference debtor report #66	.3 hr	\$82.50
11/4/2023	Review certificate of notice of order granting use of cash collateral #67	.1 hr	\$27.50
11/6/2023	Review proof of claim 4-1 and notice of appearance by Attorney Gust for Meckler Marketing	.3 hr	\$82.50
11/9/2023	Review scheduling order #70 and prepare motion to appear by video	.3 hr	\$82.50
11/10/2023	Review debtor plan of reorganization #69 and exhibit #71 and certificate of service #72	.5 hr	\$137.50
11/13/2023	Review email provided bank ledger sent by debtor counsel	.3 hr	\$82.50
11/14/2023	Review debtor amended schedules and statements #73	.2 hr	\$55.00

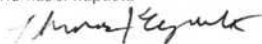
Date	Services	Time Spent	Fee Total
11/14/2023	Review email from Attorney John Schroeder with question to debtor counsel about weekly bank reporting	.1 hr	\$27.50
11/14/2023	Review email acknowledgement from debtor counsel to John Schroeder's questions	.1 hr	\$27.5
11/14/2023	Review proof of claim 5-1	.1 hr	\$27.50
11/16/2023	Review proof of claim 6-1	.3 hr	\$82.50
11/16/2023	Attend telephonic status conference	.1 hr	\$27.5
11/16/2023	Review proof of claim 6-2	.1 hr	\$27.50
11/17/2023	Review docket entries #74-75	.1 hr	\$27.50
11/17/2023	Review proof of claim 7-1	.2 hr	\$55
		<b>Service Total</b>	<b>\$4,730.00</b>
		<b>SD Sales Tax @ 6.2% for services</b>	<b>\$293.26</b>
		<b>Service/mailling expenses</b>	<b>\$82.32</b>
		<b>TOTAL</b>	<b>\$5,105.58</b>

DUE UPON RECEIPT.

Make all checks payable to Thomas J Kapusta.

TRUSTEE SIGNATURE: ss/Thomas J. Kapusta

Date: November 17, 2023





UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NORTH DAKOTA

In Re:	)	
	)	
Drain Services, Inc.	)	
	)	Case No. 23-30352
	)	
	)	Chapter 11
	)	Subchapter V
	)	
Debtor	)	

NOTICE OF FIRST INTERIM APPLICATION OF THOMAS J. KAPUSTA  
FOR SUBCHAPTER V TRUSTEE FEES AND EXPENSES

Thomas J. Kapusta, Subchapter V Trustee, has filed an application to be paid from the bankruptcy estate \$4730.00 for compensation for fees, \$293.26 for sales tax, and \$82.32 for reimbursement of expenses, for a total of \$5105.58 in fees, sales tax, and expenses. Your rights may be affected. You should read the application and this notice carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to approve the application, you or your attorney have twenty-one (21) days to file with the Bankruptcy Clerk, a typewritten response explaining your position. The response must include the case name and case number and be signed and dated by you or your attorney. The response should also include your daytime telephone number or, if your attorney files the response, your attorney's telephone number. Only an attorney may file a response on behalf of a corporation, a partnership, or another formal legal entity.

If you are an attorney, you must file any response electronically. See additional information regarding electronic filing (CM/ECF) on the Court's website at [www.ndb.uscourts.gov](http://www.ndb.uscourts.gov). If you are not an attorney, your response may be mailed or delivered to the Bankruptcy Clerk, whose address is 655 1<sup>st</sup> Avenue North, Suite 210, Fargo, North Dakota 58102-4932. The response must be mailed early enough to ensure the Bankruptcy Clerk receives it on or before the deadline stated above.

If you or your attorney files a response, you or your attorney must also mail a copy of the response to parties in interest who will not receive electronic notice of the response. You or your attorney may obtain the names and addresses of the parties in-interest listed in by contacting the Bankruptcy Clerk's office at (701) 297-7100.


A hearing on the application may be set by separate order if a response is filed on or before the deadline stated above. If you or your attorney files a response to the application on or before the deadline stated above, the Court will call you or your attorney at the scheduled hearing time using the telephone number provided in the response. If an evidentiary hearing is needed, the Court will set the date, time, and place for the evidentiary hearing during the telephonic hearing. Only an attorney may

represent a corporation, a partnership, or another formal legal entity at a hearing.

If no one files a response on or before the deadline stated above, the Court may enter an order granting the application without a hearing.

Dated: November 17, 2023

Signed: s/Thomas J. Kapusta

  
Thomas J. Kapusta

TK Enterprises, LLC

PO Box 90624

Sioux Falls, SD 57109

Phone: 605-376-6715

email: tkapusta@aol.com

Sub Chapter V Trustee